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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,547	01/30/2004	Andrew A. Burgess	10759-41	6596
John S. Beulick Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			EXAMINER	
			MAL, TRI M	
			ART UNIT	PAPER NUMBER
			3781	
			MAIL DATE	DELIVERY MODE
			05/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/768,547

Applicant(s)

BURGESS ET AL.

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-24, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

1. Claims 1-8, and 16-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is noted that the helmet portion 400 extending from behind the golf club over extending from behind the golf clubs at 412 and then draped over the golf clubs as shown in Fig. 12. Thus the recitation: "from above the top edges of the heads" is incorrect. This is a new matter rejection.

2. Claims 1-8, and 16-20, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that the helmet portion 400 extending from behind the golf club over extending from behind the golf clubs at 412 and then draped over the golf clubs as shown in Fig. 12. Thus the recitation: "from above the top edges of the heads" is inaccurate.

3. Claims 1-4, 16, and 18- 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradshaw et al. (6161698). Bradshaw teaches a helmet either portion 48 and 58. The amended claim do not impart any structure between the claimed helmet and the helmet as set forth in Bradshaw et al.

Regarding claim 16, note that 58 can be called the protective member extending over and protecting a portion of the helmet as shown in Fig. 12.

4. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Newman-Butler (1612741). Newman-Butler teaches an body having first end and a second end, the body defining a cavity there between, an adjustable and flexible helmet attached to the body comprising a head portion and shaft portions

With respect to the new limitation that body dimensioned to contain a golf bag. It is noted that the device of Newman-Butler is capable of storing a smaller golf bag, e.g., Townsend, Jr. (note bag 10 inside another bag in Fig. 10, or DeMichele (note bag in Figs. 26-28), or the bag in Barrise et al. (20020144917).

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan (6401890) in view of Newman-Butler. Tan teaches a carrier, a golf bag and a set of clubs. Tan meets all claimed limitations except for the flexible helmet. It would have been obvious to one of ordinary skill in the art to provide a bag with a flexible helmet as taught by Newman-Butler to provide an alternative bag for carrying.

Regarding claim 4, note the sleeve is portion 4 as claimed.

6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lickton (6039243). Regarding claim 1, Lickton teaches a carrier with a body, and an adjustable helmet at portion 38.

Regarding claim 9, Lickton teaches a carrier with a body comprising a longitudinal axis and defining a cavity adapted to contain a golf bag with a set of golf clubs therein, a protective member 42 passing through the sleeve (Note Fig. 14). The protective member having a first and second free end extending from opposing side of the sleeves and the entire circumference of the golf bag

Regarding claim 16, 17, 19, 20, Lickton teaches a body dimensioned to received and contain a golf bag with a set of golf clubs, a golf club protection assembly comprising a flexible helmet 38 configured to overlie a top edge of the golf club head and constraining at least some of the golf club from above the golf club heads, and a protective member 42 separate from the helmet and configured to extend around an outer periphery of the golf bag and surround the sides of the golf clubs and extending over and protecting a portion of the helmet.

Regarding claim 17, note that the two free ends of portion 42 in Lickton overlapped at the fasteners portion.

Regarding claim 19, note that locking device being the buckle assembly.

7. Claims 6, 10, 11, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lickton in view of either Orestano or Hammill. To the degree it is argued that the two ends portions of the protective member 42 are not overlapped. It would have been obvious to one of ordinary skill in the art to provide overlapping straps as taught by either Orestano or Hammill to provide an alternative means for securing the inside bag.

8. Claims 3, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lickton in view of Spector (5135222). To the degree it is argued that the draw string in Lickton is not adjustable. It would have been obvious to one of ordinary skill in the art to provide a locking assembly as taught by Spector to enable to secure the bag easily.

9. Applicant's arguments have been fully considered but they are not persuasive. The new limitation "from above the top edges of the heads" does not impart any structure over the cover of Bradshaw. There is a portion of the cover extending from above the top edge as claimed. With respect to the Newman-Butler reference, the examiner submits that the bag of Newman-

Butler is capable of containing a smaller golf bag with a smaller set of golf clubs as set forth above. With respect to the Lickton reference, applicant asserts that element 38 is a sack and can not be a helmet and that it is not attached to the base 14 of the container 10, the examiner submits that the term "helmet" can be broadly interpreted as element 38. Furthermore, the examiner submits that portion 38 engage the golf club and limit the movement of the clubs longitudinally and it is attached to the carrier via straps or protection device 42. Furthermore, it is noted that the protection device 42 passes through the rigid sleeve 34 as shown in Fig. 14 (note the two side brackets is part of the rigid sleeve forming a hole in the sleeve and the protection device 42 passing through them.)

10. Claim 21-24, 26-27 are allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tri M. Mai/
Primary Examiner, Art Unit 3781